



IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

COR 2022 001727

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 63(2)

Section 67 of the Coroners Act 2008

Findings of:	Coroner David Ryan
Deceased:	Edward Michael Schutz
Date of birth:	7 December 1941
Date of death:	30 March 2022
Cause of death:	1(a) Complications of vertebral artery and right carotid artery vascular injuries (operated) and cervical spine injuries in the setting of a body surfing incident
Place of death:	The Royal Melbourne Hospital 300 Grattan Street, Parkville, Victoria, 3050
Keywords:	Body surfing injury – emergency response – access

INTRODUCTION

1. On 30 March 2022, Edward Michael Schutz was 80 years old when he passed away at the Royal Melbourne Hospital (**RMH**) following an accident while swimming at a beach in Aireys Inlet on 27 March 2022. At the time of his death, Mr Schutz lived in Aireys Inlet with his wife, Sue Schutz. He is survived by his wife and two children. He is warmly remembered as a curious, fun loving and family man.
2. Mr Schutz was a retired surgeon and was fit and healthy. He was also a strong and experienced swimmer. His past medical history included asthma, atrial fibrillation and hypertension.

THE CORONIAL INVESTIGATION

3. Mr Schutz's death was reported to the Coroner as it fell within the definition of a reportable death in the *Coroners Act 2008* (**the Act**). Reportable deaths include deaths that are unexpected, unnatural or violent or result from accident or injury.
4. The role of a coroner is to independently investigate reportable deaths to establish, if possible, identity, medical cause of death, and surrounding circumstances. Surrounding circumstances are limited to events which are sufficiently proximate and causally related to the death. The purpose of a coronial investigation is to establish the facts, not to cast blame or determine criminal or civil liability.
5. Under the Act, coroners also have the important functions of helping to prevent deaths and promoting public health and safety and the administration of justice through the making of comments or recommendations in appropriate cases about any matter connected to the death under investigation.
6. Victoria Police assigned an officer to be the Coroner's Investigator for the investigation of Mr Schutz's death. The Coroner's Investigator conducted inquiries on my behalf, including taking statements from witnesses – such as family, the forensic pathologist, treating clinicians and investigating officers – and submitted a coronial brief of evidence.

7. This finding draws on the totality of the coronial investigation into Mr Schutz's death including evidence contained in the coronial brief. While I have reviewed all the material, I will only refer to that which is directly relevant to my findings or necessary for narrative clarity. In the coronial jurisdiction, facts must be established on the balance of probabilities.¹

MATTERS IN RELATION TO WHICH A FINDING MUST, IF POSSIBLE, BE MADE

Circumstances in which the death occurred

8. On 27 March 2022 at around 7.00am, Mr Schutz went for a swim at Sandy Gully Beach in Aireys Inlet with a local swimming group referred to as the "*Dodgy Dunkers*". He had been swimming with the group most morning since 2019. Antony Braden, a member of the Dodgy Dunkers, recalled that the water was "*pretty rough*" with the waves "*dumping very hard onto the sandbar*".²
9. The beach is not patrolled by Life Saving Victoria. There is signage at the beginning of the path from the carpark to the beach to warn swimmers of various hazards, including strong currents and submerged objects. However, there is no warning to swimmers in relation to the potential existence of heavy and crashing waves.
10. While Mr Braden was swimming in the surf, he observed Mr Schutz "*right out where the waves were breaking*" and he saw a number of large waves crash on to the back of his head as he appeared to be walking towards the shore. Mr Braden assisted Mr Schutz and recalled that he was struggling to maintain his balance. When they reached the shore, Mr Schutz lay down, initially on his stomach, before rolling onto his back.³
11. Another member of the Dodgy Dunkers contacted emergency services at about 7.30am. She needed to leave the beach and go up towards the carpark to get mobile reception. Mr Braden's wife, Julie Braden, provided first aid while they awaited the arrival of the ambulance. Mr Schutz told her that "*I've hurt my neck or my upper back*" after being "*pummelled*".⁴

¹ Subject to the principles enunciated in *Briginshaw v Briginshaw* (1938) 60 CLR 336. The effect of this and similar authorities is that coroners should not make adverse findings against, or comments about, individuals unless the evidence provides a comfortable level of satisfaction as to those matters taking into account the consequences of such findings or comments.

² Statement of Antony Braden dated 18 June 2022; Statement of Sue Schutz dated 9 June 2022.

³ Statement of Antony Braden dated 18 June 2022.

⁴ Statement of Antony Braden dated 18 June 2022; Statement of Julie Braden dated 13 June 2022.

12. At around 7.35am, Troy Griffiths from Ambulance Victoria in Anglesea received a call to attend the beach at Aireys Inlet. He arrived at Sandy Gully Beach at around 7.55am after being initially directed to the wrong access point. He noted that access to Mr Schutz was via about 100 metres of stairs from the carpark to the beach followed by about 50-100 metres of sand. Mr Griffiths confirmed that Mr Schutz was unable to self-ambulate and considered that extraction from the beach would be very difficult. He checked Mr Schutz's vital signs which all appeared normal.⁵
13. At around 7.38pm, an Ambulance Victoria crew from Torquay received a call to assist the treatment of Mr Schutz at Aireys Inlet. They arrived at the Sandy Gully Beach car park at around 8.03am. They received a handover from Ms Baden and Mr Griffiths in relation to Mr Schutz's condition noting that he presented with an altered conscious state with a haematoma to the left side of his forehead. The Ambulance Victoria paramedics arranged for Mr Schutz to be spinally immobilised and provided electrocardiogram (ECG) monitoring with oxygen therapy.
14. The paramedics considered arranging an air ambulance but the landing site was difficult with an extended arrival time and accordingly, at 8.12am, the Victoria State Emergency Service (SES) was contacted to provide specialist assistance. One of the paramedics was required to return to the car park to obtain suitable communications coverage. The SES arrived at 8.49am with a special mobile buggy designed to transport immobilised patients over difficult terrain. Mr Schutz was extracted from the beach and loaded into the ambulance in the car park at 9.25am and transported to University Hospital in Geelong.⁶
15. Mr Schutz arrived at University Hospital at 10.17am and was noted by staff in the Emergency Department of have a Glasgow Coma Scale (GCS)⁷ score of 15. Computed tomography (CT) scans disclosed a large left sided subgaleal haematoma, complex fractures through the base of the skull and cervical spine, multiple rib fractures, a right vertebral artery dissection, a potential left artery dissection and a right carotid artery dissection. Treating clinicians discussed Mr Schutz's condition with specialists at RMH and given the seriousness of his injuries, it was decided to transfer him to RMH for further treatment.⁸

⁵ Statement of Tony Griffiths dated 8 December 2022; Statement of David Allan dated 21 December 2022.

⁶ Statement of Jamie Jones dated 15 June 2022; Statement of Matthew Masiero dated 7 June 2022; Statement of David Allan dated 21 December 2022.

⁷ The GCS is a clinical scale used to measure the level of a person's consciousness.

⁸ Statement of Dr Lai Kwan Soo dated 8 July 2022.

16. At 3.22pm, an ambulance arrived at University Hospital to transfer Mr Schutz to RMH. Mr Schutz's condition subsequently deteriorated and clinicians from Ambulance Victoria decided that it was appropriate for him to be transferred in a Mobile Intensive Care Ambulance (**MICA**). The MICA left University Hospital with Mr Schutz at 4.59pm and arrived at RMH at 5.51pm.⁹
17. On arrival at RMH, Mr Schutz's GCS had dropped to 10 and he declined into respiratory arrest which required him to be intubated. An MRI scan showed bilateral cerebellar infarcts and bilateral posterior cerebellar territory infarcts. A cerebral angiography was performed and a stent placed into the left vertebral artery. In consultation with Mr Schutz's family, it was revealed that he had previously expressed a desire not to live with any significant degree of impairment or dependency. Given his extensive orthopaedic injuries and bilateral strokes, the decision was made in consultation with the family to extubate Mr Schutz and provide comfort care. He subsequently passed away on 30 March 2022 at 9.06pm.¹⁰

Identity of the deceased

18. On 30 March 2022, Edward Michael Schutz, born 7 December 1941, was visually identified by his son, Andrew Schutz.
19. Identity is not in dispute and requires no further investigation.

Medical cause of death

20. Forensic Pathologist Dr Victoria Francis from the Victorian Institute of Forensic Medicine (**VIFM**) conducted an examination and provided a written report of her findings dated 5 April 2022.
21. Toxicological analysis of ante-mortem samples identified the presence of acetone, haloperidol, metoprolol and ondansetron, consistent with emergency treatment. The presence of these drugs did not contribute to Mr Schutz's death.

⁹ Statement of David Allan dated 21 December 2022.

¹⁰ Statement of Denise van Vugt dated 13 June 2022.

22. Dr Francis provided an opinion that the medical cause of death was 1 (a) Complications of vertebral artery and right carotid artery vascular injuries (operated) and cervical spine injuries in the setting of a body surfing incident.
23. I accept Dr Francis's opinion.

REVIEW OF CARE

24. I referred this case to the Coroners Prevention Unit (**CPU**)¹¹ for a review of his management and treatment by Ambulance Victoria and while at the University Hospital and RMH.
25. The CPU concluded that the treatment received by Mr Schutz was reasonable and appropriate in the circumstances. They considered that the challenges with access to the site combined with the serious nature and required treatment of Mr Schutz's injuries were such that permanent severe disability or death were the most likely outcome. Notwithstanding it took an extended period of time to extract Mr Schutz from Sandy Gully Beach, I consider it was not unreasonable given he was required to be immobilised and access to the beach was difficult with limited communications coverage.

SAFETY SIGNAGE FOR SURF CONDITIONS

26. Mr Schutz was an experienced swimmer in surf and I consider it likely he was aware of the risks associated with swimming at Sandy Gully Beach. However, even those with experience and skill in operating in challenging surf conditions can be put at risk by the unpredictable and powerful forces of the ocean.
27. Having noted the absence of adequate signage to warn swimmers of the potential for heavy and crashing waves at Sandy Gully Beach, the Great Ocean Road Coast & Parks Authority (**'the Authority'**) was asked to respond to a proposed recommendation for the erection of such signage.

¹¹ The Coroners Prevention Unit (CPU) was established in 2008 to strengthen the prevention role of the coroner. The unit assists the Coroner with research in matters related to public health and safety and in relation to the formulation of prevention recommendations. The CPU also reviews medical care and treatment in cases referred by the coroner. The CPU is comprised of health professionals with training in a range of areas including medicine, nursing, public health and mental health.

28. The Authority advised that Life Saving Victoria's 2021 aquatic safety signage audit report did not include a signage recommendation for 'Large Breaking Waves' at the site in question. Nonetheless, the Authority advised that in response to the proposed recommendation, it consulted with Life Saving Victoria and agreed to amend the signage at Aireys Inlet to include a warning to swimmers of 'Large Breaking Waves'. The Authority advised that it expected the amendments to three relevant aquatic safety signs to be finalised towards the end of August 2023.

FINDINGS AND CONCLUSION

29. I find that Mr Schutz died as a result of injuries he received when he was hit by a wave while swimming at Sandy Gully Beach in Aireys Inlet. I consider it likely that the force of the wave caused him to strike his head heavily on the sandy bottom.

30. Pursuant to section 67(1) of the Act, I make the following findings:

- a) the identity of the deceased was Edward Michael Schutz, born 7 December 1941;
- b) the death occurred on 30 March 2022 at The Royal Melbourne Hospital 300 Grattan Street, Parkville, Victoria, from complications of vertebral artery and right carotid artery vascular injuries (operated) and cervical spine injuries in the setting of a body surfing incident; and
- c) the death occurred in the circumstances described above.

RECOMMENDATIONS

Pursuant to section 72(2) of the Act, I make the following recommendations:

- (i) That the Great Ocean Road Coast & Parks Authority include in its signage at Sandy Gully Beach a warning to swimmers about the possibility of heavy and crashing waves.

I convey my sincere condolences to Mr Schutz's family for their loss.

Pursuant to section 73(1A) of the Act, I order that this finding be published on the Coroners Court of Victoria website in accordance with the rules.

I direct that a copy of this finding be provided to the following:

Sue Schutz, Senior Next of Kin

Great Ocean Road Coast & Parks Authority

Ambulance Victoria

Barwon Health

Melbourne Health

Senior Constable Darren Looker, Coroner's Investigator

Signature:



Coroner David Ryan

Date : 29 August 2023

NOTE: Under section 83 of the *Coroners Act 2008* ('the Act'), a person with sufficient interest in an investigation may appeal to the Trial Division of the Supreme Court against the findings of a coroner in respect of a death after an investigation. An appeal must be made within 6 months after the day on which the determination is made, unless the Supreme Court grants leave to appeal out of time under section 86 of the Act.
